

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.286 OF 2005

DATED NOVEMBER, 2006

BETWEEN

Suru Peda Ankaiah and others

... Petitioners

and

The District Collector, Nellore District, Nellore and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.286 OF 2005

ORDER:

The petitioners herein seek a writ of Mandamus declaring the action of the respondents in trying to assign the land allegedly belonging to the petitioners in various survey numbers situated at Telugurayapuram village, Kaluvoya Mandal in Nellore District to third parties as illegal and arbitrary.

It is the case of the petitioners that all of them were assigned lands in Telugurayapuram village in 1989 under Rehabilitation Scheme because their lands in a village in Kaluvoya Mandal got submerged in Somasila Project. They allegedly obtained pattadar pass books and title deeds (PPBs/TDs) in 1995/1996, developed the land and have been cultivating the land regularly. They also alleged that when there was a threat of dispossession from the villagers, they filed a suit being O.S.No.338 of 2001 on the file of the Court of the Junior Civil Judge, Gudur, for permanent injunction and the said Court granted *ad interim* injunction on 13.02.2002 in I.A.No.644 of 2001 which was subsisting when the writ petition was filed. Be that as it is, the petitioners allege that the respondents are taking steps to assign the lands in the same survey numbers, which are already assigned to the petitioners, to other persons without evicting the petitioners in accordance with law.

This Court while admitting the writ petition on 19.01.2005 passed interim orders in W.P.M.P.No.396 of 2005 directing the respondents not to dispossess the petitioners from their lands, and further observing that it is not proper to assign the petitioners' lands without cancellation of pattas and without following due process of law. The respondents filed counter affidavit along with W.V.M.P.No.1755 of 2006, which are listed today. With the consent of learned counsel for the petitioners and the learned Assistant Government Pleader, the matter itself is heard finally and is being disposed by this order.

The Mandal Revenue Officer, Kaluvoya Mandal (MRO), has filed counter affidavit opposing the writ petition. It is alleged that the husband of petitioner No.16, namely, Chamarthi Venkata Subba Raju,

retired A.P.S.R.T.C., employee, was not assigned any land in Telugurayapuram village and that the said person is benamidar for other 22 petitioners, who filed the writ petition. Therefore, the writ petition as laid itself is not proper. It is further stated that the lands in survey Nos.563-3, 575-1, 575-2, 576-2, 577-1, 578-1, 578-2, 579-1, 581-1, 581-2, 582-1, 582-2, 583, 585-1, 585-2 and 586-1 were assigned to petitioners 1 to 8 and the same were resumed to the Government as the lands were not brought into cultivation within a period of three years as stipulated in the assignment conditions. The allegation that the other petitioners were assigned the lands is categorically denied and that the lands claimed by others are classified as Assessed Waste Dry. As the Government is not a party to the suit, the same has no relevance. Necessary PPBs/TDs were issued only to those persons, who were in possession with undisputed title but the then MRO issued these documents without following the procedure and without verifying the records. Therefore, necessary steps will be taken by the District Collector for cancellation of PPBs/TDs after due process of law. The proceedings were issued on 28.12.2004 resuming the land and the MRO has taken possession of the land on 06.01.2005 duly making necessary changes in village accounts. The petitioners have filed reply affidavit denying the counter averments. They further stated that powerful landlords of the village, who do not like the presence of the petitioners in the village, have brought pressure on the respondents for denying the land to the petitioners. The petitioners 1 to 8 have not received proceedings resuming the lands. The petitioners were granted assignment twelve years back and after such a long time, the MRO cannot dispute the assignment.

Learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (Assignment) have made detailed submissions in accordance with the position of the contesting parties taken in the pleadings.

The petitioners have asserted that the land was assigned to all of them in 1989 and that they obtained PPBs/TDs from the revenue authorities. They also assert that in the village accounts, the lands are registered in their names. But, either along with the writ petition or along with the reply affidavit, no evidence is placed before this Court in support of this submission. Secondly, though a reply affidavit is filed except manifesting their spite against the so called powerful landlords of the village, no serious attempt is made to contradict the counter averment that the land was not assigned to all the petitioners. Therefore, insofar as the case of the petitioners 9 to 23 is concerned, this Court holds that they have failed to prove that the lands were

assigned to them in 1989, when the assigning authority itself says before this Court that the lands were not assigned to petitioners 9 to 23 and that necessary steps are being taken to cancel the PPBs/TDs, which were erroneously issued to them. As an appellate authority, this Court cannot venture into further enquiry. Insofar as the case of the petitioners 1 to 8 is concerned, the respondents attempt that the lands were assigned to them, in May, 1987, it is their case that for contravention of condition of assignment, the lands were resumed by proceedings No.Rc.C.913 of 2004 etc., and that the lands were already taken possession. Therefore, the remedy of the petitioners is to obtain a copy of the proceedings from MRO and pursue remedies under the Board Standing Orders. Indeed, in para 6 of the reply affidavit, the petitioners also admitted this aspect of the matter, stating that if the copy of the order of resumption is given to them, petitioners 1 to 8 can file appeal before the higher authorities. Such liberty is reserved to the petitioners.

The writ petition, with the above observations, is accordingly dismissed. There shall be no order as to costs.

(V.V.S.RAO,J)

.11.2006.
pln

Note: LR copy be marked.
(By order)
pln